

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

FILED
OCT 25 2006
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CLERK

* KELLY D. WARFIELD,

* CIV. 06-04169

* Petitioner,

* vs.

* ORDER

SOUTH DAKOTA SUPREME COURT
and/or STATE OF SOUTH DAKOTA,

* Defendant.

Petitioner filed suit against the South Dakota Supreme Court and the State of South Dakota on September 20, 2006. He sought an injunction and/or a restraining order pursuant to Fed. R. Civ. P. 65. Petitioner's claims were dismissed without prejudice on September 22, 2006 (Doc. 4 & 7). On October 6, 2006, Petitioner filed a Motion for Reconsideration (Doc. 9). Petitioner filed documentation in support of his Motion for Reconsideration on October 16 (Doc. 10). On October 23, Petitioner filed a Motion to Stay the District Court Judgment (Doc. 11), a Motion to Proceed in Forma Pauperis on Appeal (Doc. 12) and a Notice of Appeal (Doc. 13).

Upon review of Petitioner's Motion for Reconsideration and supporting documentation, it is hereby ORDERED:

- (1) Petitioner's Motion for Reconsideration (Doc. 9) is DENIED;
- (2) Petitioner's Motion to Stay Judgment (Doc. 11) is DENIED as moot ; and
- (3) Plaintiff's Motion to Proceed In Forma Pauperis on Appeal (Doc. 12) is GRANTED.

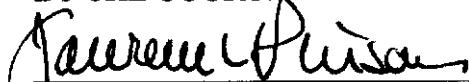
It satisfactorily appears from the prison records that the average monthly deposits to plaintiff's prisoner trust account for the past six months was \$148.33, and that his average monthly balance for the past six months was \$126.19.

The court finds that Appellant is required by the Prison Litigation Reform Act, 28 U.S.C. § 1915, to make an initial partial appellate filing and docketing fee of \$29.66.

The Petitioner shall make such payment for the initial partial fee payment for appellate docketing and filing fees in the amount of \$29.66 to the clerk of this court on or before November 15, 2006. The balance of such appellate docketing and filing fees shall be paid in accordance with 28 U.S.C. § 1915(b)(2). The institution having custody of the Petitioner is hereby directed that whenever the amount in Petitioner's trust account exceeds \$10.00, monthly payments that equal 20% of the funds credited the preceding month to the Petitioner's trust account shall be forwarded to the U.S. District Court Clerk's Office pursuant to 28 U.S.C. § 1915(b)(2), until the filing fee is paid in full.

Dated this 25th day of October, 2006

BY THE COURT:



Lawrence L. Piersol
United States District Judge

ATTEST:

JOSEPH HAAS, CLERK

By: Shelly Margulies, Deputy
(SEAL)